THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13369 OF 1996

Dated 10th February 2006

Between:

Chinna Yakub Saheb

…Petitioner

And

The Joint Collector, Chittoor, Chittoor District & another

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.13369 OF 1996

O R D E R:

The petitioner was assigned Ac.2-47 cents of land in Sy.No.446/2C, of Gorivimakulapalli village of Ramakuppam Mandal, Chittoor District, by the Tahsildar, through order dated 11.1.1957. The patta granted in favour of the petitioner was cancelled, by the first respondent through his proceedings dated 7.12.1995. The same is challenged in this writ petition.

On behalf of the respondents, counter affidavit is filed denying the allegations of the petitioner. It is stated that the prescribed procedure has been followed, before the patta granted in favour of the petitioner was cancelled, and the same does not call for any interference.

Learned counsel for the petitioner submits that when the petitioner faced

interference in the portion of the assigned land from one Chinnappa, he filed O.S.No.25 of 1987, in the Court of District Munsif, Palamaneru, and on the basis of the temporary injunction granted therein, he is in possession of the land. He submits that second respondent issued a show-cause notice, dated 9.4.1994, alleging that Ac.1-07 cents of land is not in possession of the petitioner, and on a consideration of the explanation submitted by the petitioner, further steps were dropped. It is contended that the finding recorded by the Joint Collector that the petitioner is not eligible to be assigned the land, cannot be supported in law.

Learned Government Pleader for Assignment, on the other hand, submits that the first respondent followed the procedure prescribed by law, before canceling the assignment in favour of the petitioner. It is further urged that the second respondent submitted a detailed report, on the basis of the factual enquiry, as well as the explanation submitted by the petitioner, and that the petitioner was unable to prove that he was eligible to be granted patta.

The petitioner was assigned the land in question, way back in the year 1957, under the Board Standing Orders. The second respondent came to know in the year 1984 that Ac.1-07 cents of land assigned to the petitioner, was in possession of a person, by name Chinnapa. Thereupon, he called for the explanation of the petitioner, by issuing notice, dated 9.4.1994. The petitioner submitted an explanation, narrating the various facts, including the filing of the suit. The second respondent submitted a detailed report.

Under the Board Standing Orders, the Joint Collector is the competent authority, to deal with the matters of cancellation of pattas. On receiving the report from the second respondent, the first respondent issued a detailed show-cause notice, dated 24.1.1995, to the petitioner. It was pointed out that the petitioner was not eligible to be assigned the land, and at any rate, he parted with the possession of substantial part of it. Reference was also made to the application made by Sri Chinnapa, for assignment of Ac.1-07 cents of land, which was initially assigned to the petitioner. Apart from issuing show-cause notice, the first respondent has also conducted regular hearing. On a consideration of the entire matter, he passed the impugned order. Learned counsel for the petitioner is not able to point out any procedural irregularity.

Even if there is any possibility, for taking a different view on merits, this Court

is not inclined to do so, for the reason that the petitioner had an alternative remedy, by way of appeal, to the Chief Commissioner of Land Revenue. The appellate authority would be in a better position to examine the matter, from all angles, and pass appropriate orders. It may be true that requiring the petitioner to avail the alternative remedy, at this stage, may appear to be somewhat abnormal. However, since the examination of the matter on facts, is needed, this Court does not find any other alternative.

Hence, the writ petition is disposed of, leaving it open to the petitioner to avail the remedy of appeal. If the appeal is preferred within four weeks from today, it shall be entertained, without any objection as to limitation. Till such time, *status quo* obtaining as on today, only as regards the left over land, out of Ac.2-47 cents that was assigned to the petitioner, shall be maintained, for a period of six weeks. There shall be no order as to costs.

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10th February 2006

Note: Issue C.C. in three days.

(B/o)

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